

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 8848 of 1992

with

CIVIL REVISION APPLICATIONS No 941 and 942 of 1996

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the Judgment ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AMBARAMBHAI ANANDBHAI JAKASANIA

VERSUS

STATE OF GUJARAT

Appearance: (In all the matters)

MR AM DAGLI for the Petitioners

None present for the Respondents

CORAM : MR JUSTICE S.K. KESHOTE

Date of Decision : 30/12/1999

C.A.V. JUDGMENT

1. As all these three matters are identical and arises in fact and substance against the same order of the State Government, the same are being taken up for hearing together and are being decided by this common judgment. Otherwise also, these matters were ordered to be heard together by the court earlier.

SPECIAL CIVIL APPLICATION No 8848 of 1992

2. There are in all seven petitioners and they are challenging by this special civil application, the resolution dated 17th September, 1992 and the orders dated 28th October, 1992 and 3rd November, 1992 of the State Government- respondent.

3. The facts of the case are that all the petitioners were appointed on the post of Agricultural Assistants in the services of the State Government. All the petitioners were appointed some time in the year 1964. 17th September, 1992, is the date on which the State of Gujarat in Panchayat and Rural Housing Department passed a resolution under which it is resolved that the Agricultural Assistants which includes the petitioners who are working in the office of the respondent No. 2 are to be deputed on the vacant posts of Gram Sevaks. Accordingly,, the orders were passed for the posting of the petitioners as Gram Sevaks in different Gram Panchayats. Hence, this special civil application before this court.

4. Learned counsel for the petitioners submits that out of seven petitioners, by now, five petitioners would have retired. This petition has come up for admission before this court on 8th December, 1992, on which date, the same was admitted and interim relief in terms of para- 12 (C) has been granted, which reads as under:

(C) Pending admission and till final disposal of the present special civil application grant stay as to the execution, implementation and operation of the orders at annexures 'D' & 'E' dated 28-10-1992 and dated 3-11-1992 respectively passed by the respondent No.2 insofar as they relate to the present petitioners.

5. Ultimately, this interim relief was made absolute on 14th February, 1994. Till today the same continues. So substance is that the orders which have been passed against the petitioners posting them on the

vacant posts of Gram Sevaks were not given effect to. Learned counsel for the petitioners submitted that it would have been only a temporary posting of the petitioners.

6. None is present on behalf of the respondents. None of the respondents have taken care to file reply to the special civil application also.

7. In these facts and more so keeping in view the orders of this court dated 8th December 1992 and 14th February, 1994, the orders were not given effect to which were impugned in this special civil application, meaning thereby, all the petitioners continued to work with the respondent No.2, now whether at this stage, when out of seven petitioners, five petitioners have been stated to be retired, the State Government will consider it to be necessary to send these persons as Gram Sevaks. By now, there is all possibility that the State Government would have made the appointments on the posts of Gram Sevaks also.

8. In the facts and circumstances of this case, the interest of justice will be served in case this special civil application is disposed of in the terms that the matter may be considered afresh and if in case still it considers that these petitioners are to be sent and posted as Gram Sevaks in different Gram Panchayats, appropriate order may be passed after hearing the petitioners. This may be a reasoned order and copy of the same may be sent to the petitioners by registered post. Where it desires that none of the petitioners has to be sent to Panchayat as Gram Sevaks then nothing has to be done in the matter and the file may be closed. Rule and special civil application stand disposed of in the aforesaid terms with liberty to the petitioners for revival of this special civil application in case of difficulty. No order as to costs.

CIVIL REVISION APPLICATION No 941 of 1996

9. This is a case also where the plaintiff appellant- petitioner was ordered to be posted as Gram Sevak. He was also Agricultural Assistant in the office of the respondents No. 2 and 3. Instead of coming to this court, he filed the suit in the civil court and in this suit, he filed an application for grant of temporary injunction and both the courts have declined to grant temporary injunction in his favour. However, he approached to this court and on 25th June, 1996, in this revision application, notice was issued and interim

relief has also been granted in terms of prayer clause (c) meaning thereby, the petitioner was also not relieved from the department and sent to Panchayat Department as Gram Sevak. If we go by the facts of this case and particularly the fact that in the year 1996, the petitioner's age was of 55 years, by now he would have also been otherwise retired. At this stage, where in case the petitioner would have been continued in service, the Government shall consider necessary to post him as Gram Sevak or not is another important question.

10. The interest of justice will be served in case this revision application is disposed of in terms that the respondent may take a fresh decision whether in view of the subsequent developments which have been taken place still it, in case the petitioner continues in service, considers necessary to send him to the Panchayat department as Gram Sevak in pursuance to the resolution passed by the State Government in the year 1992. The interim relief granted by this court shall continue till the decision has been taken as well as till the civil suit out of which this revision application arises is decided. Learned trial court is directed to dispose of the civil suit No. 362 of 1992 also expeditiously say within a period of four months from the date of receipt of writ of this order. Rule and civil revision application stand disposed of accordingly.

CIVIL REVISION APPLICATION No 942 of 1996

11. In case though the petitioner would have been in service but this matter is identical to civil revision application No. 941 of 1996. Rule and this civil revision application stand disposed of in the same terms in which civil revision application No. 941 of 1996 stands disposed of.

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